
(2013) 10 MAD CK 0034

In the Madras High Court

Case No : Writ Petition No. 29611 of 2013 and M.P. No. 1 of 2013

A.G. Ravi

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 31-10-2013

Acts Referred:

Citation : (2013) 10 MAD CK 0034

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : L. Baskaran, for the Appellant; R. Vijayakumar, Addnl. Govt. Pleader for R1 and Mr. P. Gunaraj, TNEB for R2 to R7, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—The President of Agramel Panchayat Union, Poonamallee Division, Thiruvellore District, has sought for a writ of

mandamus, forbearing the District Collector, Thiruvellore District, Thiruvellore and the Secretary, Tamilnadu Electricity Board, Fort St. George,

Chennai, the 1st and 2nd respondents from erecting the Electric Post in the petitioner's village. He has also prayed for a direction to the Assistant

Engineer, Tamilnadu Electricity Board, Nazarathpet Electricity Distribution Station, Nazarathpet, Chennai, the 7th respondent to drop the work

and save the human lives. In the supporting affidavit, the petitioner has contended that the residents of Patchai Vararana Perumal Koil Street, and

villagers of Agramel, gave a representation on 17.09.2013 objecting to the erection of electric posts as it would endanger human lives of the

residents. He has further submitted that on receipt of the representation, President of Agramel Panchayat Union, a meeting was convened. It was

decided to form a committee to inspect the street and thereafter, a consensus was arrived at, in the Panchayat to send representation objecting to

the erection of electric post. Accordingly, a representation dated 01.10.2013, has been sent to the respondents requesting them to stop the

erection of new electric posts. As the said representation has not been considered, the petitioner is constrained to prefer the writ petition for the relief stated supra.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. First of all, the writ petition is styled as a public interest writ petition. Averments in the supporting affidavit, reflect the general cause of the

residents and the villagers of Agramel Panchayat Union, Poonamallee Division, Thiruvellore District. The petitioner, has not substantiated as to how

he is personally aggrieved over the action of the respondents in erecting the electric posts. He has not substantiated as to the infringement of any

personal rights by the action of the respondents in erection of electric posts.

4. Considering the averments made in the supporting affidavit and the material on record, the petitioner, cannot be said to be a person aggrieved to

maintain a writ petition. Reference could be made to the following decisions.

(i) In State of Punjab Vs. Suraj Parkash Kapur etc., , a Constitutional Bench of the Supreme Court held that the existence of a right and

infringement thereof, are the foundation of the exercise of the jurisdiction of the High Court under Article 226 of the Constitution. The right that can

be enforced under Article 226 of the Constitution must ordinarily be the personal or individual right of the applicant.

(ii) At paragraph No. 2 of the Judgement in Vinoy Kumar Vs. State of U.P. and Others, , the Apex Court has held as follows:

Para-2: Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his

fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired

interests have been violated ignoring the applicable rules. The relief under Article 226 of the Constitution is based on the existence of a right in

favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas corpus

or quo warranto or filed in public interest. It is a matter of prudence, that the Court confines the exercise of writ jurisdiction to cases where legal

wrong or legal injuries caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or inquiry

at the instance of third party where aggrieved here is an effective legal ad organization which can take care of such cases. Even in cases filed in

public interest, the Court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury

or illegal burden is threatened and such person or determined class of persons is, by reason of poverty, helplessness, or disability or socially or

economically disadvantaged position, unable to approach the Court for relief.

(iii) In *State of Orissa Vs. Ram Chandra Dev and Mohan Prasad Singh Deo*, , the Supreme Court has held as follows:

But though the jurisdiction of the High Court under Art. 226 is wide in that sense, the concluding words of the article clearly indicate that before a

writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is legally invaded

or threatened. The existence of a right is thus the foundation of a petition under Article 226.

(iv). In *Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others*, , the Supreme Court, held as follows:

The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the petitioner himself though in the case

of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified.

(v). After considering the above legal principles, a Division Bench of this Court, in *Nadar Mahajana Sangam Vs. Reserve Bank of India, Central*

Office, Department of Banking Operation Development and Others, , has held as follows:

The writ petition filed by the appellant cannot have any personal grievance in the matter and at best, only its members can have any grievance. It is

well settled that ordinarily a writ petition can only be filed by someone who is personally aggrieved. The powers under Article 226 of the

Constitution of India should be sparingly used and only in those clear cases where the rights of a person have been seriously infringed and he has

no other adequate and specific remedy available to him. The relief under Article 226 of the Constitution of India is based on the existence of a right

in favour of a person invoking the writ jurisdiction.

5. Though, during the course of arguments, Mr. L. Baskaran, learned counsel for the petitioner, drew the attention of this Court, to a recent

accident which occurred in Chennai, where four persons died due to electrocution, when they came in contact with a service line and further

submitted that the erection of new posts, would endanger human lives, this Court, is not inclined to issue any mandamus to the respondents,

directing not to consider the erection of electric posts, in view of the mandate of the Electricity Act, 2003, to provide supply to an owner or

occupier of the premises, provided such occupier is in lawful occupation.

6. The direction or route or way leave, for providing electricity, to the applicant, is left to the discretion of the licensee. While, choosing the way

leave, it is for the licensee, to assess the feasibility, cost of expenditure and that erection of posts or towers and drawal of supply lines, should be

with the minimal damage to any consumer through whose lands, the supply line is drawn. In the case on hand the photographs produced by the

petitioner, shows that supply lines are sought to be drawn through a street. There are houses duly electrified, taking supply from the existing posts.

Photographs also shows that the existing electric posts have been erected on the edge of the street. When, electric supply is drawn from the

existing posts to the houses in the street, it is not open to the petitioner to object, erection of new electric posts in the same street for providing

supply to an intending consumer.

7. As regards, safety of the habitants, it is incumbent on the part of the licensee, to examine the feasibility of erection of new posts and to draw

electricity supply lines to an intending consumer. Getting contact with a live electric wire would certainly endanger human life. But at the same time

in view of the mandatory provision u/s 43 of the Electricity Act, 2003, the petitioner, in the capacity of the President of Agramel Panchayat Union,

Thiruvellore District, has no locus standi to object to the erection of posts more particularly, when he has not substantiated any infringement to his

personal rights.

8. Though, the learned counsel for the petitioner, has sought for a direction to

the respondents to consider the representation and pass appropriate orders, this Court is not inclined to issue any direction, for the reason that it is for the licensee to consider all safety measures, and the feasibility of providing supply to any intending consumer. In view of the above discussions, this Court is not inclined to issue any mandamus as prayed for.

Hence, the writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.